

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

Case No. 92-81127

GENE O. POLK,

Defendant/Petitioner.

HON. AVERN COHN

ORDER DENYING MOTION FOR A CERTIFICATE OF APPEALABILITY (Doc. 2153)

This is a criminal case. Defendant/Petitioner Gene O. Polk (Petitioner) is serving a life sentence following his jury conviction on multiple drug related offenses. Petitioner has pursued multiple post-conviction remedies, including a motion under 28 U.S.C. § 2255 and two petitions for writ of audita querela under 28 U.S.C. § 1651. None of them were successful. Most recently, Petitioner filed a motion for relief from judgment under Fed. R. Civ. P. 60(b), in which he again argued he is entitled to relief based on the United States Supreme Court's decision in United States v. Richardson, 526 U.S. 813 (1999). (Doc. 2148). The Court denied the motion and denied a certificate of appealability. (Doc. 2150). Before the Court is Petitioner's motion for a certificate of appealability. (Doc. 2153). Because the Court has already declined to issue a certificate of appealability, the motion is DENIED AS MOOT. Petitioner must direct his request for a certificate of appealability to the Court of Appeals for the Sixth Circuit.¹

SO ORDERED.

s/Avern Cohn
UNITED STATES DISTRICT JUDGE

Dated: December 20, 2013

¹Petitioner may have intended to file his motion in the Sixth Circuit; the motion is captioned "In the United States Court of Appeals for the Sixth Circuit." Petitioner, however, must address and mail his motion to the Sixth Circuit in Cincinnati, Ohio.

CERTIFICATION

I hereby certify that a copy of the foregoing document was mailed to the parties/attorneys of record on this date, December 20, 2013, by electronic and/or ordinary mail.

s/Carol Bethel for Sakne Chami
Case Manager, (313) 234-5160